

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

BAD RIVER BAND OF THE LAKE
SUPERIOR TRIBE OF CHIPPEWA INDIANS
OF THE BAD RIVER RESERVATION

Plaintiff,

v.

ENBRIDGE ENERGY COMPANY, INC., and
ENBRIDGE ENERGY, L.P.

Defendants.

Case No. 3:19-cv-00602

ENBRIDGE ENERGY, L.P.

Counter-Plaintiff,

v.

BAD RIVER BAND OF THE LAKE
SUPERIOR TRIBE OF CHIPPEWA INDIANS
OF THE BAD RIVER RESERVATION and
NAOMI TILLISON, in her official capacity

Counter-Defendants.

Judge William M. Conley
Magistrate Judge Stephen
Crocker

**DECLARATION OF PAUL EBERTH IN SUPPORT OF ENBRIDGE'S OPPOSITION
TO THE BAND'S REQUESTED PERMANENT INJUNCTION**

I, Paul Eberth, declare the following based on personal knowledge to which I am competent to testify:

1. I currently serve as the as the Director of Tribal Engagement for Enbridge Energy, L.P. ("Enbridge"). In my role, I strive to increase Enbridge's engagement with tribes in the upper Midwest, including the Bad River Band.

2. I am a professional engineer, licensed in Minnesota. I previously held the roles of

Engineering and Construction Manager as well as Director of Safety at Enbridge. I also served for two years on the committee that developed the American National Standards Institute/American Petroleum Institute Recommended Practices 1173, which provides recommended practices for “Pipeline Safety Management Systems.”

3. On May 8, 2023, I participated in a site visit to the area near where Line 5 crosses the Bad River on the Reservation, which is known as the “Meander.” The purpose of the site visit was to conduct measurements and assess site conditions.

4. Also participating in that site visit besides Enbridge personnel was Naomi Tillison, Director of the Mashkiiziibii Natural Resources Department (“MNRD”), among others.


5. During the site visit at the Meander, where we spent approximately two hours at the site, I did not hear anyone suggest or state that the situation at the Meander was an “emergency” or that it posed an imminent threat of spanning or release.

6. Additionally, at the Meander, I explained to Naomi Tillison that Enbridge would like to take action to prevent future erosion by reinforcing the bank with sandbags, which would be lowered in with a helicopter. I described how this project would stop or slow erosion, specifically at the toe of the slope and how it could be installed quickly and with minimal impacts.

7. While at the site, I observed Enbridge’s site-specific monitoring system which includes cameras and a monument grid, recorded distances from the monuments to the top of riverbank and recorded pipeline depth of cover, which ranged from 66” to 72” down to the top of the pipe in the area of the D, E, and F monument series.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: May 15, 2023


Paul Eberth